

Senate File 523

S-3179

1 Amend Senate File 523 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

5 DEFENSE SUBPOENAS

6 Section 1. Section 815.9, subsection 1, unnumbered
7 paragraph 1, Code 2023, is amended to read as follows:

8 For purposes of **this chapter, chapters 13B, 229A, 232, 665,**
9 **812, 814, and 822,** and ~~section~~ sections 811.1A and 821A.1, and
10 the rules of criminal procedure, a person is indigent if the
11 person is entitled to an attorney appointed by the court as
12 follows:

13 Sec. 2. NEW SECTION. **821A.1 Defense subpoenas in criminal**
14 **actions.**

15 1. *a.* A criminal defendant or counsel acting on the
16 defendant's behalf shall not issue any subpoena for documents
17 or other evidence except upon application to the court. An
18 application shall not be granted unless a defendant proves by a
19 preponderance of the evidence any of the following:

20 (1) The evidence sought is relevant or will lead to the
21 discovery of relevant information.

22 (2) The evidence sought does not include private
23 information of a crime victim or any other person unless the
24 evidence is exculpatory.

25 *b.* For the purposes of this subsection:

26 (1) "*Exculpatory*" means information that tends to negate
27 the guilt of the defendant, and not information that is merely
28 impeaching or is substantially cumulative in nature.

29 (2) "*Private information*" means information for which
30 a person has a reasonable expectation of privacy including
31 but not limited to information the state would need a search
32 warrant to obtain, nonpublic electronic communications, and
33 information that would reveal personal information immaterial
34 to the prosecution.

35 2. Notwithstanding any rule of criminal procedure

SF 523.1986 (1) 90

(amending this SF 523 to CONFORM to HF 644)

1 concerning the issuance of a subpoena, this section is the
2 exclusive mechanism for a criminal defendant or counsel acting
3 on the defendant's behalf to issue a subpoena for documents or
4 other evidence.

5 3. An application for a defense subpoena shall not be filed
6 or reviewed ex parte.

7 4. The prosecuting attorney shall not be required to execute
8 or effectuate any order or subpoena issued pursuant to this
9 section.

10 5. A crime victim or other party who is the subject of
11 a subpoena shall not be required by the court to execute a
12 waiver.

13 6. Upon application by a crime victim or the prosecuting
14 attorney, the court shall appoint an attorney to represent a
15 person or entity served with a defense subpoena if the person
16 or entity is determined to be indigent pursuant to section
17 815.9. Counsel appointed pursuant to this subsection shall be
18 paid from the indigent defense fund established pursuant to
19 section 815.11.

20 7. Documents or other evidence obtained through a defense
21 subpoena must be provided to the prosecuting attorney within
22 three days after receipt of the documents or other evidence.

23 8. Documents or other evidence obtained through a defense
24 subpoena that does not comply with this section shall not be
25 admissible in any criminal action if offered by the defendant.

26 9. The court may sanction an attorney for knowingly issuing
27 a defense subpoena in violation of this section.

28 10. An applicant for postconviction relief shall not be
29 entitled to relief on a claim of ineffective assistance of
30 counsel as a result of evidence obtained through a defense
31 subpoena.

32 DIVISION II

33 DEPOSITIONS

34 Sec. 3. NEW SECTION. 701.13 **Depositions before indictment.**

35 A person expecting to be made a party to a criminal

SF 523.1986 (1) 90

(amending this SF 523 to CONFORM to HF 644)

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1 prosecution shall not be entitled to conduct a deposition in
2 the criminal proceeding prior to the person being indicted for
3 a criminal offense.

4 DIVISION III

5 CONDITIONAL GUILTY PLEAS

6 Sec. 4. Section 814.6, Code 2023, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 3. A conditional guilty plea that reserves
9 an issue for appeal shall only be entered by the court with
10 the consent of the prosecuting attorney and the defendant
11 or the defendant's counsel. An appellate court shall have
12 jurisdiction over only conditional guilty pleas that comply
13 with this section and when the appellate adjudication of the
14 reserved issue is in the interest of justice.

15 DIVISION IV

16 PROSECUTION WITNESSES — MINORS

17 Sec. 5. Section 915.36A, Code 2023, is amended to read as
18 follows:

19 **915.36A Minor prosecuting witness — pretrial contact.**

20 1. A prosecuting witness who is a minor shall have the
21 right to have the interview or deposition taken outside of the
22 presence of the defendant. The interview or deposition may
23 be televised by closed-circuit equipment to a room where the
24 defendant can view the interview or deposition or in a manner
25 that ensures that the defendant shall not have contact with
26 the minor. The defendant shall be allowed to communicate with
27 the defendant's counsel in the room where the minor is being
28 interviewed or deposed by an appropriate electronic method.

29 2. The supreme court shall amend the rules of criminal
30 procedure to comply with this section including but not
31 limited to the elimination of a requirement that a defendant be
32 physically present at the deposition of a minor.

33 DIVISION V

34 JUROR QUALIFICATIONS

35 Sec. 6. Section 48A.30, subsection 1, paragraph f, Code

SF 523.1986 (1) 90

(amending this SF 523 to CONFORM to HF 644)

1 2023, is amended to read as follows:

2 *f.* The registered voter is not a resident of Iowa, or the
3 registered voter submits documentation under section 607A.4,
4 subsection ~~3~~ 5, that indicates that the voter is not a citizen
5 of the United States.

6 Sec. 7. Section 607A.4, Code 2023, is amended to read as
7 follows:

8 **607A.4 Jury service — minimum qualifications —**
9 **disqualification — documentation.**

10 1. To serve or to be considered for jury service, a person
11 must possess the following minimum qualifications:

12 *a.* Be eighteen years of age or older.

13 *b.* Be a citizen of the United States.

14 *c.* Be able to understand the English language in a written,
15 spoken, or manually signed mode.

16 *d.* Be able to receive and evaluate information such that the
17 person is capable of rendering satisfactory ~~juror~~ jury service.

18 2. ~~However,~~ a person possessing the minimum
19 qualifications for service or consideration for service may be
20 disqualified for service or consideration for service if the
21 person has, directly or indirectly, requested to be placed on
22 a list for ~~juror~~ jury service.

23 3. A person convicted of a felony who remains under the
24 supervision of the department of corrections, a judicial
25 district department of correctional services, or the board of
26 parole shall be disqualified from jury service.

27 4. A person convicted of a felony who is currently
28 registered as a sex offender under chapter 692A or who is
29 required to serve a special sentence under chapter 903B shall
30 be disqualified from jury service.

31 ~~3-~~ 5. A person who claims disqualification for any of
32 the grounds identified in **this section** may, upon the person's
33 own volition, or shall, upon the court's volition, submit
34 in writing to the court's satisfaction, documentation that
35 verifies disqualification from ~~juror~~ jury service.

DIVISION VI

SUPREME COURT — RULES OF CRIMINAL PROCEDURE REVISIONS

Sec. 8. SUPREME COURT — RULES OF CRIMINAL PROCEDURE

REVISIONS. The supreme court shall revise the rules of criminal procedure submitted for legislative council review on October 14, 2022, to comply with this Act. The revised rules of criminal procedure shall be submitted for legislative council review no later than June 1, 2023, and shall supercede the revised rules submitted on October 14, 2022. If the supreme court fails to timely submit rules of criminal procedure revised to comply with this Act, the rules of criminal procedure submitted for legislative council review on October 14, 2022, shall be rejected in their entirety.

Sec. 9. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.>

2. Title page, lines 3 and 4, by striking <providing penalties,>

DAN DAWSON